

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 94-0637 CS**  
**Controlled Substance Excise Tax**  
**For The Tax Period: 1994**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Controlled Substance Excise Tax - Possession**

**Authority:** IC 6-7-3-5

The taxpayer protests assessment of controlled substance excise tax.

**STATEMENT OF FACTS**

Taxpayer was arrested for possession of marijuana on June 21, 1994. The Department issued the taxpayer a Controlled Substance Excise Tax (CSET) assessment on July 6, 1994. Taxpayer filed a protest of the CSET assessment via counsel on July 26, 1994.

The Department made multiple attempts to contact taxpayer. A hearing was scheduled for October 13, 1998 to which taxpayer failed to appear. Taxpayer's listed counsel was contacted to schedule a hearing. The Department received a response from counsel and a hearing was scheduled for May 27, 1999 to which taxpayer's representative failed to appear.

Using the best information available, the Department has made substantial efforts to contact both taxpayer and taxpayer's representative. Taxpayer and taxpayer's representative have failed to notify the Department when they were unable to attend scheduled hearings. Furthermore, neither taxpayer nor taxpayer's counsel have attended scheduled hearings. Therefore, this determination is made based on the original protest filed with the Department.

**I. Controlled Substance Excise Tax - Possession**

**DISCUSSION**

Indiana Code 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer must prove by a preponderance of the evidence that he neither possessed, nor delivered, nor manufactured the marijuana upon which controlled substance excise tax was imposed. Without evidence to rebut the presumption that he is liable for the tax, based on the information in the file, the Department finds that taxpayer is responsible for the CSET assessment.

### **FINDING**

The taxpayer's protest is denied.